



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF JANUARY 12, 2006**

CALL TO ORDER: Chairperson Lydon called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Lydon, Commissioners Chan, Chugh, Harrison, Lorenz, and Sharma

ABSENT: King

STAFF PRESENT: Jeff Schwob, Planning Director
Larissa Seto, Senior Deputy City Attorney II
Scott Ruhland, Associate Planner
Joel Pullen, Planner I
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Miriam Shallit, Video Technician

INTRODUCTION OF NEW
PLANNING COMMISSION
MEMBER:

Yogi Chugh stated that he had lived in the city for 17 years, and he believed this was a chance to give back to this remarkable city. He had worked with each Commissioner on various issues over the past years and looked forward to serving with all of the Commission Members. He thanked Mayor Bob Wasserman for the appointment and former Commissioner Pauline Weaver for all the work she had accomplished while a member of the Commission. He promised to be a great student while leaning about the issues that would be coming before the Planning Commission.

APPROVAL OF MINUTES: Regular Minutes of December 8, 2005 were approved with the following change:

Page 21, statement by Commissioner Sharma, ". . . Sharma disclosed that he had met with the previous speaker ~~but~~ and they had ~~not~~ discussed the project."

CONSENT CALENDAR

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 2, 3, AND 4.

Commissioner Lorenz asked that the vote for Item Number 1 be taken separately, as he wished to recuse himself.

IT WAS MOVED (HARRISON/SHARMA) AND CARRIED BY FOLLOWING VOTE (6-0-0-1-1) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 1:

- Item 1. CASTILLEJA PLANNED DISTRICT– 48835-48881 Kato Road – (PLN2005-00348)** - to consider a Preliminary and Precise Planned District for the development of 114 single-family detached units and associated landscaping, private open space, access and circulation improvements on a 7.04-acre lot in the Industrial Planning Area. A Mitigated Negative Declaration, PLN2004-00272, was previously adopted for this project.

CONTINUE TO JANUARY 26, 2006 TO ALLOW THE APPLICANT AND STAFF TO REVIEW AND DISCUSS RIGHT-OF-WAY AND VARIATIONS TO STANDARD REQUIREMENTS.

The motion carried by the following vote:

AYES:	5 – Chan, Chugh, Harrison, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	1 – Lorenz

IT WAS MOVED (HARRISON/SHARMA) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 2, 3, AND 4.

- Item 2. McDONALD'S RESTAURANT - 42800 Mission Boulevard - (PLN2006-00052)** - to consider a Conditional Use Permit Amendment to allow the reconfiguration of the drive-through layout (to create two ordering lanes) at an existing drive-through restaurant located in the Mission San Jose Planning Area. This project is categorically exempt from the California Environmental Quality Act because it is a minor alteration of an existing facility's site layout as described in Section 15301 of the CEQA Guidelines.

Commissioner Harrison asked if Condition No. 2 could be extended beyond one year through the normal process.

Planning Director Schwob agreed that the condition could be extended at the applicant's request.

HOLD PUBLIC HEARING;

AND

FIND THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15301 OF THE CEQA GUIDELINES AS A MINOR ALTERATION OF AN EXISTING FACILITY;

AND

FIND THE SITE PLAN AND PRELIMINARY LANDSCAPE PLAN ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE CONDITIONAL USE PERMIT AMENDMENT PLN2006-00052 TO U-91-6, AS SHOWN ON EXHIBIT "A", SUBJECT TO THE FINDINGS AND CONDITIONS ON EXHIBIT "B".

- Item 3. CENTERVILLE MARKET PLACE – 37070 Fremont Boulevard (PLN2006-00110)** – to consider a Planned District Minor Amendment to add approximately 4,600 square feet of interior mezzanine retail space to the approved retail building located in the Centerville Planning Area. A Mitigated Negative Declaration was previously adopted for this project.

Commissioner Harrison disclosed that he was part owner of a business that leased property within 500 feet of the applicant. However, approval of this item would not increase the value of the property and did not cause recusal.

Commissioner Lorenz disclosed the same.

HOLD PUBLIC HEARING;

AND

FIND THE PREVIOUSLY APPROVED MITIGATED NEGATIVE DECLARATION ADDRESSES THE PROPOSED PROJECT AND NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED;

AND

FIND CENTERVILLE MARKET PLACE PD MINOR AMENDMENT PLN2006-00110 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND LOCAL ECONOMY CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND OBJECTIVES OF THE CENTERVILLE SPECIFIC PLAN AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE CENTERVILLE MARKET PLACE PD MINOR AMENDMENT PLN2006-00110, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

Item 4.

P.F. CHANG'S - Northeast corner of Auto Mall Parkway and Christy Street - Pacific Commons Development (PLN2006-00136) - to consider a Finding for architectural approval for a 7,850 square foot building for P.F. Chang's Restaurant on the northeast corner of Auto Mall Parkway and Christy Street in the Industrial Planning Area. An Environmental Impact report (EIR) and Supplemental EIR were previously approved for the Pacific Commons Project. An Addendum was prepared and adopted for the Planned District major Retail Amendment in 2003, finding the project to be consistent with the original plan and EIRs.

HOLD PUBLIC HEARING;

AND

FIND THAT THE EIR AND SUPPLEMENTAL EIR PREVIOUSLY APPROVED FOR THE PACIFIC COMMONS PROJECT, AND THE ADDENDUM ADOPTED FOR THE PLANNED DISTRICT MAJOR AMENDMENT (PLN2003-00166) ARE CONSISTENT WITH THE PROPOSED RETAIL RESTAURANT USE AND THAT THE ARCHITECTURAL PLANS FOR THE P.F. CHANG'S RESTAURANT IMPLEMENT THE PLANNED DISTRICT MAJOR AMENDMENT AND THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED;

AND

FIND PLN2006-00136 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATION, GOALS, AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED IN THE STAFF REPORT;

AND

APPROVE PLN2006-00136, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B" AND THE COLOR AND MATERIAL BOARD IDENTIFIED ON EXHIBIT "C".

The motion carried by the following vote:

AYES:	6 – Chan, Chugh, Harrison, Lorenz, Lydon, Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 5. **SAIGON VILLAGE ARCHITECTURE – 6044 Stevenson Boulevard (PLN2006-00147)** – to consider a Planned District Minor Amendment for a change in architectural design to two previously approved retail buildings located in the Industrial Planning Area. This project is exempt from CEQA per Section 15302(b), Replacement of a commercial structure with a building of the same size, shape and capacity.

ADDENDUM TO CONDITIONS OF APPROVAL:

A-9 The applicant shall propose alternative materials for the awnings subject to review and approval of the Development Organization.

Fred Kim, applicant's representative, recalled that these buildings had been approved by City Council and a building permit had been granted in October 2005. Since then a change of ownership had occurred and his company was planning a larger development for the area. At this time, they wished to change the façade of the existing building, in keeping with the overall theme of the proposed future project, which would be an internationally themed retail, entertainment lifestyle center. He introduced Kevin Horn, architect, who would present the concept of the project.

Kevin Horn, RTKL Architects, displayed the conceptual overview of an international global village, which would bring together food, arts and entertainment from a variety of cultures. The global villages would include the Saigon Village and Indian, Chinese, Japanese-Korean sections with a European village in the center. Public space would be a park-like setting. Cues would be taken from these different global architectures and recreate them in a "contemporary, exciting manner." A skin application would be applied to change the character of the existing building. Potentially, a bank and small restaurant would be located in the pad building next to the larger building and the design of the larger building would be applied to this building. Feature elements would be added at the major entry points at the corners to anchor the building. Some kind of landscaping was envisioned at the back of the building to act as a screen.

Commissioner Sharma asked about the timing of this particular project as compared to the entire Globe project.

Mr. Kim replied that a request for a General Plan Amendment had been submitted that would rezone the parcels above this parcel. After approval, full elevations would be submitted for the whole project. He expected completion of the total project to occur sometime in the fall or winter of 2007.

Commissioner Harrison asked if the rear doors of each unit would be for deliveries and would the customers know not to use them. He asked for elaboration about how the center would be kept fresh and new looking. He knew that paint on stucco tended to chip off and fade. Was the applicant comfortable with Condition A-8 that would require refining some of the components?

Mr. Kim agreed that the rear doors would be used for service and he stated that the front entrances would be clearly marked. Special sealants could be used to keep the paint fresh. They planned to conform to (or surpass) industry standards to maintain the aesthetic value of the buildings.

Mr. Horn added that the storefront bases would have durable facing materials, such as granite or tile. He agreed to Condition A-8.

Vice Chairperson Chan had several questions and Mr. Kim replied:

- *What types of businesses, other than restaurants, were anticipated to locate within the Village?*
Fashion retailers would be located along Fashion Boulevard within the project. It was hoped that some retailers would reflect the cultures expressed in the architecture, which would cater to the local market. A cinema was envisioned that would show independent foreign films, rather than the “usual blockbuster films.”
- *Were there any plans for office-type businesses?*
Most would be retail. The only office spaces would be used by the Village management company and his firm.
- *Would there be any other types of office businesses?*
No more than a total of 5,000 square feet, if any.
- *Would office space be allowed in this area?*
Associate Planner Ruhland replied that this parcel was already zoned for High Volume Retail and Commercial. The General Plan amendment would change the land behind this parcel from General Industrial to High Volume Retail and typical office use was not anticipated within High Volume Retail. Some service businesses, i.e., real estate, banks, accounting would be allowed.
- *Was an eating establishment previously approved for this site?*
Associate Planner Ruhland replied that there was no specific use identified in the previous design of the building.
- *Were quite a few eating establishments planned?*
As many as four different restaurants were being considered.
- *Did the applicant know of any actual businesses that were planning to occupy the buildings?*
No leases had been signed, but there was a waiting list of interested restaurants.
- *Was this particular project near the sign that stated an Asian buffet was coming?*
Yes, but it would be on a different parcel, altogether.
- *Would East-West Bank actually be located on the smaller pad, or was that shown for the purposes of illustration?*
Discussion had been held with East-West Bank, along with other banks.
- *Was the Golden Theater one and the same that was referenced as the performing arts stage?*
No. However, it was hoped that the theater would be used as a multifunctional performing stage, as well.
Mr. Horn clarified that the performing venue that she was referring to would be an outdoor performing plaza in the public space area.
- *Would parking be adequate, as other local Asian shopping centers seemed to lack enough space.*
All parking requirements would be met and they were working with their consultants and Associate Planner Ruhland to make sure adequate parking would be available.

Commissioner Chugh stated that this was a “wonderful” plan. If was not executed, as the applicant intended, was it possible that it might not become an international global village? And if that happened, at what moment would the project unfold to become something else?

Mr. Kim replied that there was no “Plan B,” as they were very determined that this project would become the international village that they envisioned.

Commissioner Lorenz commented that the buildings, according to the renderings, had been enhanced, which would make the project that much more unique.

Chairperson Lydon opened the public hearing.

Lance Goulette, Standard Industries, stated that his company owned the three commercial buildings located directly adjacent to the proposed Saigon Village, and they were the only buildings with a common property boundary with the project. A successful shopping center would adversely affect his properties, i.e., overflow parking, increased litter and his tenants would have to face the rear service entrances of the 62,000 square foot building. He stated that he had not received notice of the November 17th public meeting and he requested that he be noticed of all future public hearings concerning this development. He asked that a permanent, solid, impassable fence be erected on the property line between the two properties, which would deter overflow parking and litter and it would screen the service entrances. A Principal in the development company, John Nguyen, had committed to constructing a masonry wall during a meeting held on October 18, 2005. He requested that the Planning Commission require that such a wall be constructed during this Saigon Village phase of the project. He wondered why there was no mention in the staff report of the widening of Encyclopedia Circle that had been a condition for the Planned District that had been approved in October 2000. This was to be eight feet of paving along the entire frontage of the property where Encyclopedia Circle turned north from the rear side of Saigon Village, and he wondered if the ingress and egress would be through the rear of the applicant's property.

Mr. Kim thanked the speaker for his comments and he promised to discuss his points with the rest of the team and to meet with him later.

Commissioner Sharma asked if it was possible that the applicant intended to mutually work out the issue of a fence.

Mr. Kim stated that he was not authorized to make a decision at this time. It would be discussed with the rest of the team members and they would get back to the speaker at a future date.

Chairperson Lydon closed the public hearing.

Commissioner Harrison asked if any public comments were received regarding the Environmental Impact Report. He asked if any fence would be approved by the Zoning Administrator and what the procedure would be.

Associate Planner Ruhland stated that no comments were received from the general public, but some comments were received from the State.

Planning Director Schwob replied that the Central Business District had certain policies regarding new fences, which was meant to encourage pedestrians to walk among the various businesses. In this case, pedestrians probably would not be going between the two developments.

Associate Planner Ruhland did not recall if a fence or wall had been part of the prior approval.

Commissioner Harrison asked if the architectural portion of this project could be moved along with the fence or wall being decided by the two parties and he wondered if it could be looked at when reviewing the rest of the project. He asked if the rest of the project was likely to be approved and started before this phase was finished. Did staff have any information about the widening of Encyclopedia Circle?

Planning Director Schwob suggested that the issue could be directed back to the applicant to work with the neighbor to agree upon a fence. However, "a fence" should be conditioned and the question was what kind. He suggested that the discretion be left to staff and if a resolution could not be agreed upon, it could come back to the Planning Commission. If the General Plan Amendment was approved and the next phase was begun, the issue of a fence could be considered at that time. He felt that it was appropriate to indicate to the applicant how the Commission felt about the fence.

Associate Planner Ruhland stated that the sidewalk and landscape strip on Encyclopedia Circle would be installed as part of the second phase of this development.

Chairperson Lydon asked if the eight feet would not be a traffic lane, but would be definitely a sidewalk. He suggested that the speaker should contact staff concerning the widening of Encyclopedia Circle.

Associate Planner Ruhland replied that he was correct.

Vice Chairperson Chan stated that she also would like clarification concerning the widening of Encyclopedia Circle. How long was the common property line between the two parcels? Was the sharing of the cost of a fence between commercial property owners applicable in this case?

Planning Director Schwob said that to clarify the widening of Encyclopedia Circle, this item would have to be continued until the next meeting to give staff time to review the precise conditions of the original planned district. He believed there would also be a travel lane in each direction and a question had come up concerning whether a parking lane was also required, which would encourage shoppers to park there and walk through the speaker's property while accessing the Village site. He estimated that the length of the common property was 49 feet along Encyclopedia Circle and about 697.5 lineal feet abutted Encyclopedia Circle.

Senior Deputy City Attorney Seto replied that if a fence, for example, completely enclosed a backyard area, then the cost was shared by neighbors. However, this would be a "nuisance fence to prevent a nuisance from happening," so there was no requirement under California law for the two property owners to share the cost. She suggested that the Commission could limit the cost that the applicant could spend for a fence, since the length of the property line could make a masonry wall quite expensive.

Vice Chairperson Chan agreed that the length of a fence or wall, along with the height, could make it expensive. Parking was also a concern. Lack of parking was a good thing, because it meant that business was good. But lack of parking could also negatively impact the neighbors, which could be troublesome if they could not find parking in their own lot. She asked how many parking spaces would be available for this particular portion of the project.

Associate Planner Ruhland stated that approximately 280 spaces were planned for parking, which met the required parking, as previously approved.

Vice Chairperson Chan understood that the development had now changed.

Associate Planner Ruhland pointed out that just the architecture had changed. The square footage had remained the same.

Commissioner Chugh asked if parking became an issue in the future, could the neighbor build a wall to alleviate the problem?

Planning Director Schwob stated that, generally speaking, a property owner could build a fence on their property, as long as it conformed to zoning requirements. In this case, an industrial property owner could erect a fence. A fence with a height of six feet could be built along the shared property line without a building permit and eight feet with a building permit. The fence had to step down to a height of four feet within 20 feet of the front property line.

Commissioner Chugh commented that any businessman had an obligation to insure that the neighbors appreciated his project. The applicant had indicated that he would take the neighbor's issues under consideration, but he could not commit to any decision at this time. Standard Industries had valid concerns; however, if this project impacted the parking on his property, he had an option to insure that his business was not negatively impacted and he could construct a fence. He urged the applicant to make a decision as soon as possible, specifically before it was brought before the City Council, because they will probably ask the same questions.

Commissioner Sharma suggested that the widening of Encyclopedia Circle be addressed as the rest of the development moved forward. He asked if a condition could be added that directed the applicant to meet with the neighbor and staff to come to a mutually acceptable solution concerning the fence, which would allow this phase of the development to continue.

Planning Director Schwob stated that it was within the Commission's purview to add a condition that required a fence and that it should be worked out between the property owners in coordination with staff. He agreed that it was wise to resolve this issue before this project came before City Council, which was scheduled for February 7th.

Commissioner Sharma asked what the "major changes" were in the project, as noted in the staff report and why the Commission was asked to review a minor amendment. This was a nice project, compared to when Home Depot and WalMart were at this location with many vehicles and a lot of traffic. It was a great concept, as it embodied what "Fremont really is."

Planning Director Schwob clarified that it was a major modification in the appearance of the project. When the planned district was originally crafted, any architectural change had to be approved by the Planning Commission and City Council.

Chairperson Lydon asked what would happen if the parties could not agree on a fence. It seemed that a setting time requirement would not be necessary.

Planning Director Schwob replied that the City Council would decide the issues when this project was heard, if no resolution had been made. He expected that it would be resolved before then, so it would not need a time requirement.

Commissioner Harrison believed this underutilized piece of property could become very unique and would be an additional jewel in the city. He did not want to delay the project, but he agreed that the applicant had to be a good neighbor. He agreed that, as was brilliantly stated by the new Commissioner, it should be decided before this project was reviewed by City Council. He asked the neighbor to bring his concerns to staff, as it seemed best to look at the widening of Encyclopedia Circle at the time the Commission reviewed the second phase of this development.

Planning Director Schwob summarized the condition to read: The applicant would work with the neighbor, in coordination with staff, to develop a barrier that was consistent with the new development in style and appearance, and the Encyclopedia Circle improvements would be addressed in Phase 2 of the development.

IT WAS MOVED (HARRISON/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND PD MINOR AMENDMENT, PLN2006-00147, IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LOCAL ECONOMY CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMEND CITY COUNCIL APPROVE PD MINOR AMENDMENT, PLN2006-00147, TO AMEND P-90-18 FOR THE REDESIGN OF TWO PREVIOUSLY APPROVED COMMERCIAL BUILDINGS IN CONFORMANCE WITH EXHIBIT "A" (ARCHITECTURAL ELEVATIONS), EXHIBIT "B" FINDINGS AND CONDITIONS OF APPROVAL AND EXHIBIT "C", COLOR AND MATERIAL SAMPLE BOARD;

AND

ADD CONDITION A-10 TO READ: THE APPLICANT SHALL WORK WITH THE ADJACENT NEIGHBOR ON SOME TYPE OF BARRIER OR SCREENING ELEMENT ALONG THEIR COMMON PROPERTY LINE IN COORDINATION WITH STAFF.

The motion carried by the following vote:

AYES:	6 – Chan, Chugh, Harrison, Lorenz, Lydon, Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
- Report on actions of City Council:

Planning Director Schwob announced that the Warm Springs Village project zoning was approved for approximately 345 new units by KB Homes. The rezoning request for the Hubview project on Mowrey Avenue across from Fremont Plaza was approved, as well as Bell Manor across from The Hub.

Planning Director Schwob stated that an appeal had been received for the Qureshi parcel map, which was scheduled to be heard by City Council on February 7th.

He asked for opinions concerning the new staff report format.

All comments were positive. It was suggested that Item numbers and the planner's email address should be added.

- Information from Commission: Commission members may report on matters of interest.

Commissioner Lorenz noted that the new Chairperson would be “more equipped to put out fires” than the previous Chairperson had been.

Chairperson Lydon commented that new **Commissioner Chugh** seemed to be an excellent choice for the Commission. He had demonstrated a solid understanding of the issues and “a willingness to dive right in.”

Meeting adjourned at 8:10 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

Jeff Schwob, Secretary
Planning Commission